

ATTORNEY DOCKET NO: 72270

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : RICCI et al.
Serial No : 10/581,964
Confirm. No : 7292
Filed : June 7, 2006
For : DEVICE FOR PERFORMING...
Art Unit : 1657
Examiner : Bin Shen
Dated : August 13, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO REQUIREMENT UNDER 35 U.S.C. § 121 AND 372

Applicant hereby elects Group I directed to claims 1-34 and 41-44, drawn to a device for measuring the sedimentation rate. It should be noted that claim 45 is not a device claim as mentioned in the Office Action as it relates to the method. Accordingly, claim 45 has not been elected. Applicant respectfully traverses the requirement as the method and the device both require holders for holding the test tubes, agitating the test tubes with an agitating device and detecting the sedimentation level inside the test tubes with a detector. As such, it is believed that the method requires the special technical features of the device as claimed in the device claims. Applicant respectfully requests consideration of all claims in view of the close relationship between the method and device. Further, as a single search can be performed to consider all aspects of the invention and in view of the close relationship between the method and device, consideration of all claims is believed to be proper.

Favorable action on the merits is requested.

Respectfully submitted
for Applicant,



By: _____

John James McGlew
Registration No. 31,903
McGЛЕW AND TUTTLE, P.C.

- and -



By: _____

Brian M. Duncan
Registration No. 58,505
McGЛЕW AND TUTTLE, P.C.

JJM:BMD
72270-8

DATED: August 13, 2008
BOX 9227 SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-9227
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE
IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-
0410.